

The Issue Dynamics of Congressional Dysfunction

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ABSTRACT

The U.S. Congress recently has been unable to solve problems both pressing and recurring on a whole range of issues. Observers have been quick to point to increasing polarization as the culprit. Yet there is nothing about polarization itself that suggests the kinds of breakdowns in problem solving that we have seen, let alone government shutdowns. We study another indication of Congress's dysfunction: the committee system's information processing capacity. In analyzing data on how committees take in and translate policy information through hearings from 1971 to 2010, we show that hearings have involved fewer witnesses, have become more one-sided, and are less focused on developing solutions to public policy problems. In this paper we find that trends in these different indicators are not uniform across policy areas. Information processing has changed more rapidly on some issues than others, and hearings on some issues have even become less one-sided over time. Moreover, the clusters of issues that have seen the most consistent changes to committee information processing do not fall along familiar lines. Our findings highlight help point the way towards better understanding where Congress and its committee system have become dysfunctional in order to suggest appropriate paths forward.

In December 2015, the typically cautious Senate Majority Leader Mitch McConnell (R-Ky.) made a bold statement: “dysfunction is over” (quoted in Lesniewski and Bowman 2015). To support his claim, McConnell pointed to a bipartisan education reauthorization bill, a budget resolution, and a large number of votes on amendments as signs that Congress had turned a corner to become a more open and productive institution.

In the months that have followed McConnell’s optimistic assertion, the Senate found itself mired in gridlock over an international nuclear research agreement with Iran and federal assistance for Flint, Michigan, (Lesniewski 2016; Henry 2016). Furthermore, Republicans in that chamber refused to schedule a hearing on Merrick Garland’s nomination to the Supreme Court, setting the record for the longest delay on a nomination to the high court. The appropriations process continues to rely on short-term, stop-gap funding for government agencies and the Senate did not take up a budget resolution in 2016, while Congress has “missed its chance” to adequately address the Zika virus’s spread into the United States according to some public health experts by not acting prior to the 2016 August recess (Ordoñez 2016).

Many observers view the above examples and others like them as symptoms of a partisan divide; we view them as information problems rooted in the committee system. By learning about certain policy areas and becoming key information sources for their colleagues, committees contribute to informed debate and overcome many of the coordination and collective action problems inherent in a large legislature. That such problems have not only returned but overwhelmed Congress in recent years suggests that committee information processing has weakened.

In this paper we explore whether changes to committee information processing, and with them congressional dysfunction, have occurred across a wide range of issues or been

concentrated among a few policy topics. The first section discusses our explanation for a dysfunctional Congress rooted in changes to how the committees process information through their public hearings and describes our coding scheme aimed at measuring these changes. The second section presents data on close to 22,000 committee hearings from 1971 to 2010. We find that the committee breakdown in information processing does not affect all issues equally; rather some issue areas have experienced rapid declines in obtaining “good” information while other issue areas are much less affected. The final section concludes with some ideas for future investigation into the issue dynamics of dysfunction.

The Information Dimension to Congressional Dysfunction

In 1950, the American Political Science Association (APSA) issued a report entitled “Toward a More Responsible Two-Party System.” The report was a response to loose linkages between state and national party organizations that made it difficult for whichever party gained control of the federal government to establish and implement a coherent agenda. The APSA Committee on Political Parties felt at the time that stronger parties would deter elites from misinforming the public and present distinctive choices at the polls. The report made several recommendations based on its diagnosis, including “a party system with sufficient party loyalty” and “tightening up the congressional party organization” (APSA 1950, p. 2-8).

In many ways we have the party-driven Congress that APSA wanted (Sinclair 2003); members of the two parties in Congress are voting in patterns that are internally cohesive yet distinct from one another and are doing so at higher rates than any other point in the institution’s history (Rohde and Aldrich 2010). Party leaders have more tools at their disposal to enforce discipline and structure the institution’s agenda (Curry 2015; Theriault and Lewallen 2012). Such a pattern was, for many decades, an ideal to which most political scientists believed

Congress should aspire. Yet citizens, journalists, current and former members of Congress, and political scientists alike now lament the increase in party polarization along with the decline of comity and bipartisanship within the legislative branch and the resulting fall-off in legislative productivity, and the decline in trust in government among voters (APSA 2013; Bipartisan Policy Center 2014; Eldridge 2014; Galston 2010; Mann and Ornstein 2012).

We do not doubt that polarization and partisan warfare within Congress have contributed to increased gridlock and breakdowns in the legislative process, but we also believe that the problem of congressional dysfunction has another dimension: breakdowns in the way that the institution, and particularly its committee system, process information about policy problems and solutions. Information and analysis are critical to governance; the U.S. Congress in particular is responsible for gathering information and defining problems as a means of meeting the American public's policy needs (Jones 1975). As James Madison writes in arguing against annual elections in the *Federalist*: “No man can be a competent legislator who does not add to an upright intention and a sound judgment a certain degree of knowledge of the subject on which he is to legislate” (quoted in Kramnick [1788] 1987, 328). The term “information processing” typically refers to the means by which organizations acquire, synthesize, distribute, and use information (Cyert and March 1963; Huber 1991). It is the organizational analogue to individual information processing, which translates inputs into outputs (Simon and Newell 1964).

Our study focuses on committee-level information processing to understand why Congress often struggles to complete legislation that should, in theory, benefit individual members and their institution. Committee hearings allow committee members to acquire information and simultaneously signal that information to the rest of the institution and to other institutions (Diermeier and Feddersen 2000; Katzmann 1989). By connecting outside expertise to

the members who actually make the decisions, committees are critical stages in the flow of information within the institution (Krehbiel 1991; Porter 1974; Sabatier and Whiteman 1985). Congress's vast analytical bureaucracies (the GAO, CBO, and CRS) also work well in producing reports that are respected and utilized by members on both sides of the aisle, yet reports do not mobilize the attention of members in the same way that committee hearings have at least the potential to do.

While Republicans and Democrats in Congress may not always agree on matters of governance, more consensus should exist on the importance of obtaining good information. Without good information, the parties offer ideologically opposed ideas that only with luck actually solve the problems those solutions are meant to address and potentially frustrate their initial efforts. With good information, the parties can still offer ideologically opposed ideas to present voters with distinct agendas, but they can do so with solutions – either from the left or right – that might actually solve the problems they have identified and in turn lead to more favorable evaluation from constituents. Committees thus are a worthwhile place to look for changes in information processing as their hearings help influence member perceptions and attitudes and provide a focal point where legislative staff get up to speed on a policy problem.

We do not argue that hearings are the only – or even the most important – place that committees can get information. Interest groups, think tanks, and the executive branch also have lots of information upon which committee members can rely. Our claim in this paper is that committee hearings are one of those routinized and regularly occurring events that take place on Capitol Hill that can offer us insight into how committees are behaving. While these other sources may supplant hearings, we think it is more likely that members use these other sources in a similar way to which they use hearings. The difference between hearings and these other

sources is that there is a written record of the hearings while these other sources simply cannot be counted or analyzed.

Partisan warfare and committee information processing are undoubtedly related; committees often respond to the partisan environment in which they operate (Fenno 1966). We further believe that breakdowns in the committee process feed back into the partisan war. If and when committees restrict their attention to focus on a particular purpose or receive slanted testimony, then the information available to members of Congress becomes further limited, which hinders effective problem solving no matter how they try to solve a particular problem.

Consider a human trafficking bill taken up in the Senate in March 2015. Just as the bill was scheduled for debate, Senate Democrats noticed a provision that limited spending on abortion services in other countries; the provision always had been in the bill since its introduction two months prior, but Democrats had not asked whether the bill addressed abortion funding and Republicans were not forthcoming with that information. The anti-trafficking bill finally passed the Senate by a 99-0 vote, but not before the Senate experienced heated rhetoric and a largely partisan series of procedural votes. The debate and gridlock over this bill even spilled over into other institutional responsibilities, as it delayed a vote on Loretta Lynch's nomination to be attorney general.

We can trace this particular breakdown in congressional problem solving back to the Senate Judiciary Committee. While we should not necessarily expect a committee to search high and low for pro-human trafficking advocates, the committee's hearing featured four senators, including Democrats Barbara Mikulski and Kirsten Gillibrand, and four anti-trafficking advocates, all of whom expressed their support for the bill but none of whom addressed the legislation in much detail. Had the abortion restriction provision been identified earlier in the

process and Democrats' objections been raised during the committee's hearing, a floor fight – and a lot of embarrassment – could have been avoided. Inadequate information processing in this case fed back into the partisan war and added to Congress's image as a dysfunctional institution. The remainder of this section describes how we code congressional hearings to systematically capture how committees acquire information and changes to this process over time.

Our coding of committee hearings begins with examining the hearing and testimony summaries published by the Congressional Information Service (CIS) as well as the Policy Agendas Project's Congressional Hearings dataset. In addition to the issues they address and the types of witnesses testifying, we code information-gathering in committee hearings along two dimensions – what we call *purpose* and *stance*. The first dimension we use to describe committee information processing is a hearing's *purpose*: whether it addresses a problem, policy implementation, or a proposed solution. The problems and solutions discussed in these committee hearings may not be new; what is “new” in this context is the relative attention they receive. Problem-focused hearings are those asking if a particular issue needs to be addressed and how. They tend to address recent studies, policy trends (such as an increase in childhood obesity), natural disasters, and national or international events. Implementation-focused hearings ask whether the government's current approach to addressing a particular problem is working or even appropriate. A solution-focused hearing addresses the benefits or costs of a particular proposal; the problem is taken as given.

Not every hearing purpose is clear cut, especially as the “implementation” code could conceivably describe either a problem or a government solution associated with the federal bureaucracy. The important distinction is whether or not the bureaucratic solution already has been adopted. If so, the hearing tends to assess how an agency is carrying out that solution, and

so the “implementation” code is most appropriate. If the agency has not yet acted on a proposal, then the hearing focuses on the “solution” aspect and whether the proposal is appropriate. The CIS summaries of each hearing can guide coders with such language as: “Hearing to review financial problems of Baltimore residents and related community assistance programs and needs” (problem) or “Hearing to examine concerns about DOD design and implementation of a force-wide anthrax vaccine immunization program, including concerns about vaccine safety and efficacy” (implementation).

The second dimension we code is a hearing’s *stance*. We find that a hearing can take one of two stances: positional or exploratory. Positional hearings hear only one side of a debate. All of the witnesses may praise or, alternately, criticize a program or idea, or the hearing itself may focus only on the positive (or negative) aspects. Exploratory hearings, by contrast, are those in which the committee hears from both sides of a particular debate, or receives testimony that imparts information and analysis without also including a witness’s personal opinion. Some language in the CIS summary that would indicate an exploratory hearing or individual’s testimony includes: discusses, explanation of, analysis of, views on, briefing on, status of, and differing (or conflicting) views on. Positional language includes: objections to, need for, importance of, preference for, negative impact of, charged inadequacy of, and disagreement with. According to our coding rules, only one witness needs to have provided a view that differs from other witnesses in order for a hearing stance to qualify as exploratory.

Anecdotal evidence suggests that all issues have not been equally stricken by congressional dysfunction. Congress has struggled to reauthorize transportation agencies and programs like the Federal Aviation Authority and the Highway Trust Fund, and nearly shut down the Department of Homeland Security’s operations in 2015 amid disputes over President

Obama's unilateral actions on immigration. At the same time, the two parties have come together in recent years to enact laws on different drug enforcement issues such as combating prescription drug abuse and opioid addiction and reducing the disparity in criminal penalties for possession of powder and crack cocaine. The next section presents our data on committee hearings in order to describe changes to congressional information processing and more systematically examine whether these changes vary across issues.

Data

We first obtained our sample of hearings from the Policy Agendas Project's Congressional Hearings dataset, which uses a topic coding scheme to trace issue attention in Congress across time. Our own data collection efforts began in the first congress after the passage of the 1970 Legislative Reorganization Act (1971-1972) and concluded with the hearings that took place in the 111th Congress (2009-2010), the most recent congress for which the Policy Agendas Project had data. We gathered data by committee, initially following Smith and Deering's (1990) findings on perceptions of conflict in different committees' environments. While we did not subsequently build on their analysis, collecting data this way leaves us with a broad representation of issues (see table 1). We include several additional committees, such as the House and Senate Intelligence and Joint Economic Committees, that serve vital information gathering and processing roles. Our dataset includes 21,830 hearings, which represents more than one-third of the total number of hearings held by all congressional committees during this time period. We have also coded the number of witnesses that appeared at each hearing to assess the volume of information gathered in these fora. Our dataset excludes hearings on nominations.

[Table 1 about here.]

We focus on three measures in the following analysis: the average number of witnesses per hearing in a given congress, the percentage of hearings that attend to proposed solutions, and the percentage of exploratory hearings. We highlight solution-focused hearings rather than either problem or implementation hearing, though we note that information processing patterns on the three different hearing purposes undoubtedly are connected; Lewallen, et al. (2016) find that a decrease in solution hearings is associated with increases in both problem- and implementation-focused hearings. Yet effective problem solving (however defined) requires good information about the solution, legislative or otherwise, under consideration to address that problem. A decrease in attention to proposed solutions specifically thus would suggest that committees no longer are “lay[ing] an intellectual and political foundation” for good problem solving (Kaiser 2013, 27).

The average committee hearing from 1971 to 2010 called on 11 witnesses, while 44 percent of hearings addressed a proposed policy solution and 69 percent of all hearings were exploratory (see table 2). We further find large cross-sectional differences in committee information processing by issue. Many more witnesses have testified on hearings related to agriculture and the environment, 17 and 15 on average, respectively. Hearings on these two policy areas also tend to be more exploratory (78 and 75 percent, respectively) and more focused on proposed solutions (46 and 55 percent, respectively). Relatively more defense hearings have been exploratory, 81 percent, than any other policy area, while 61 percent of hearings on public lands and water issues have been devoted to proposed solutions.

Hearings in other policy areas have focused much more on policy problems and implementation, and been more positional, over the past four decades. Just 21 percent of hearings on international affairs have focused on proposed solutions; instead, 45 percent of them

have been devoted to new and emerging problems. Hearings on this topic also involve almost half as many witnesses (six) as all the hearings. Across all issues, almost 70 percent of the hearings in our dataset are exploratory. In the cases of commerce and education issues, however, their hearings are 14 points below the average at 55 percent.

[Table 2 about here.]

We now turn to longitudinal trends in committee information processing by issue with slope coefficients from regressing a given issue's witness, solution, and exploratory measures on a time trend. A positive coefficient indicates that the relevant indicator is increasing over time for a particular issue, while a negative coefficient indicates that an indicator is decreasing over time. Comparing the slope coefficients reveals not only which issues have seen decreases (or increases) over time, but the relative magnitude of those changes.¹

The average number of witnesses at a given hearing has decreased for 16 out of the 19 issues we analyze; only science and technology, international affairs, and environment issues have seen no statistically significant change in the number of witnesses called per hearing over the past four decades (see figure 1). The largest decreases in witnesses have been seen in hearings devoted to social welfare, a little more than one fewer witness with each successive congress. Education, labor and employment, and agriculture issues display the next-largest decreases. In the social welfare, agriculture, transportation, and environment hearing models, we find relatively large standard errors for the slope coefficients, which indicate wider variation in the average number of witnesses called to testify on these issues.

[Figure 1 about here.]

¹ We have excluded immigration hearings from this analysis due to the low number of hearings in our dataset.

More than half of the issues we analyze also saw significant decreases in their attention to proposed solutions (see figure 2). Put another way, 12 out of 19 topics have seen significant shifts towards hearings that, first, raise attention to and define a particular policy problem and, second, towards overseeing implementation of existing solutions. Science and technology hearings exhibit the largest shift by far, about a four percentage point decrease in solution-focused hearings with each successive congress, followed by defense, education, agriculture, and government operations (which includes multi-agency appropriations measures along with matters related to government employees, tax administration and enforcement, and electoral campaign regulation).

[Figure 2 about here.]

Finally, just seven of the 19 issue we analyze have seen significant changes in the percentage of exploratory hearings since 1971 (see figure 3). Of these, science and technology and defense hearings have become more exploratory over time, and in the former case the change appear to be quite large, an increase of about two percentage points with each successive congress. The time trend has positive slope coefficient estimates for four additional issues—transportation, international affairs, macroeconomics, and government operations—although they are not statistically significant. Five issues show statistically significant decreases in exploratory hearings; that is, their hearings have become more positional or one-sided over time. Once again social welfare hearings show the biggest decrease, followed by hearings on foreign trade, housing, public lands and water, and health.

[Figure 3 about here.]

To summarize these findings, three issues have seen significant decreases in all three of our indicators: health, social welfare, and public lands and water (see table 3). Over the past 40

years these issues all have seen fewer witnesses called to testify (and thus fewer sources of information), fewer hearings devoted to learning about proposed solutions, and fewer exploratory, analytical hearings. In the case of social welfare, this topic saw the largest decrease of any issue in two of our three measures. Health hearings have been consistently below average in their attention to proposed solutions throughout this time period, but dropped even lower in the 1990s and 2000s and fell to just 12 percent solution-focused in 2009-2010. Health hearings were consistently average or above average in our exploratory measure throughout the 1980s but similarly became more positional in the late 1990s and early 2000s.

Two additional issues consistently have exhibited no significant change in how committees process information: international affairs and the environment. Recall from Table 2 that international affairs exhibited the lowest witness average and the lowest percentage of solution-oriented hearings of all 20 issues. While these patterns have stayed relatively consistent over time, data from the most recent congresses in our dataset suggest they are declining even further, with just three witnesses called on average and only eight percent of those hearings being devoted to proposed solutions in 2009-2010.

We find it perhaps notable that we do not find consistent clusters of issues exhibiting the same patterns; changes to committee information processing do not seem to be fall along familiar lines. Changes among issues concerning the economy, infrastructure, and the scope of government that typically divide the two parties in Congress are not always consistent with each other. Health and social welfare undoubtedly are related topics; their connection to public lands and water issues are less certain, particularly as the latter exhibits a longitudinal trend different from environment policy. Science and technology hearings have seen no significant change in

the average number of witnesses, a decrease in attention to proposed solutions, and an increase in exploratory stances over time.

[Table 3 about here.]

Conclusion

We find both cross-sectional and longitudinal systematic differences among issues for how committees are processing information and setting the congressional agenda. Hearings on environment and international affairs issues have stayed relatively steady over the past 40 years, while health, public lands and water, and social welfare issues show significant declines in the number of testifying witnesses, the percentage of hearings focused on proposed solutions, and the percentage of exploratory hearings that hear from multiple viewpoints. We further find increases among some issues for this latter measure, with defense and science and technology hearings becoming more exploratory over time.

The next step is to use these findings to more precisely examine the causes and consequences of these trends. Jochim and Jones (2013), for example, find that some issues have become locked into voting patterns that divide the two parties in the U.S. House, including public lands and health. In the Senate, some issues may be more susceptible to filibuster and brinkmanship dealmaking than others. Many proposed solutions for a dysfunctional Congress are universal, aimed at the institution, its capacity, and its agenda as a whole. We first need to understand the problem better, which our systematic study of committee information processing sets out to do. Our findings suggest that more targeted remedies that speak to differences in how the institution addresses different issues may be more appropriate.

In closing, we stress that good information processing and solution search can be carried out in a partisan environment. But in an era in which few if any bills are amended and debated at

length on the chamber floor, a robust committee process becomes even more vital for exploring effective policy solutions. Quality information through and from the committee system should render more effective Congress's ability to solve problems regardless of the solution, partisan or otherwise, that results. This, in turn, should render American representative government more effective as well.

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Table 1. Hearings Coded by Issue.

Issue	No. of Hearings
Defense	2,873
Government Operations	2,248
Banking & Commerce	1,872
Public Lands & Water	1,562
Agriculture	1,509
Health	1,476
Environment	1,364
Education	1,354
Labor & Employment	1,300
Macroeconomics	1,266
Energy	940
Law, Crime & Family	847
Social Welfare	596
International Affairs	584
Civil Rights & Liberties	537
Transportation	406
Housing	361
Foreign Trade	343
Science & Technology	309
Immigration	83
Total Hearings	21,830

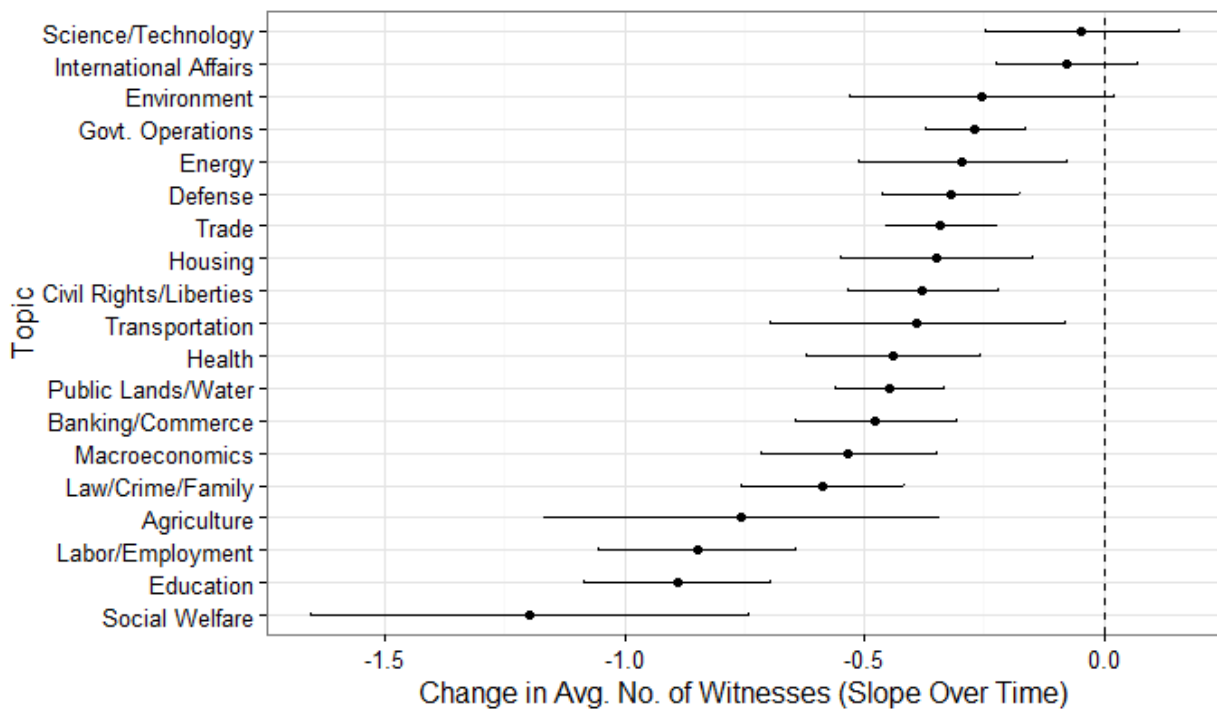
Source: Policy Agendas Project Congressional Hearings dataset

Table 2. Committee Information Processing by Issue, 1971-2010.

Issue	Avg. Witnesses	Solution %	Exploratory %
Avg. Across Issues	11	44	69
Macroeconomics	9	45	72
Civil Rights & Liberties	10	43	68
Health	10	<i>30</i>	<i>65</i>
Agriculture	17	46	78
Labor	12	52	<i>67</i>
Education	12	51	<i>55</i>
Environment	15	51	75
Energy	12	43	75
Immigration	8	28	<i>64</i>
Transportation	11	<i>41</i>	<i>67</i>
Law, Crime & Family	9	<i>30</i>	71
Social Welfare	15	55	<i>61</i>
Housing	11	<i>32</i>	<i>63</i>
Banking & Commerce	9	<i>30</i>	<i>55</i>
Defense	9	47	81
Science & Technology	8	<i>31</i>	71
Foreign Trade	8	<i>34</i>	<i>59</i>
International Affairs	6	<i>21</i>	73
Government Operations	8	46	<i>65</i>
Public Lands & Water	11	61	70

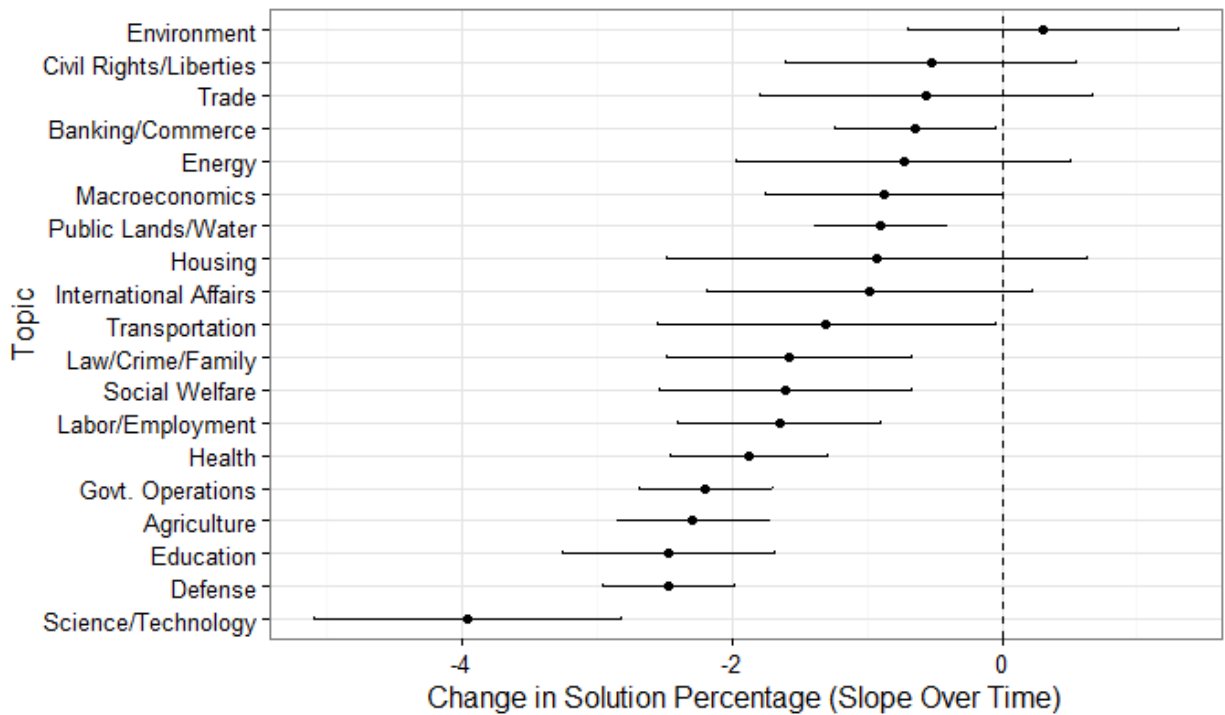
Note: cell entries in bold represent above-average values, cell entries in italics represent below-average values

Figure 1. Changes in Average Hearing Witnesses by Issue, 1971-2010.



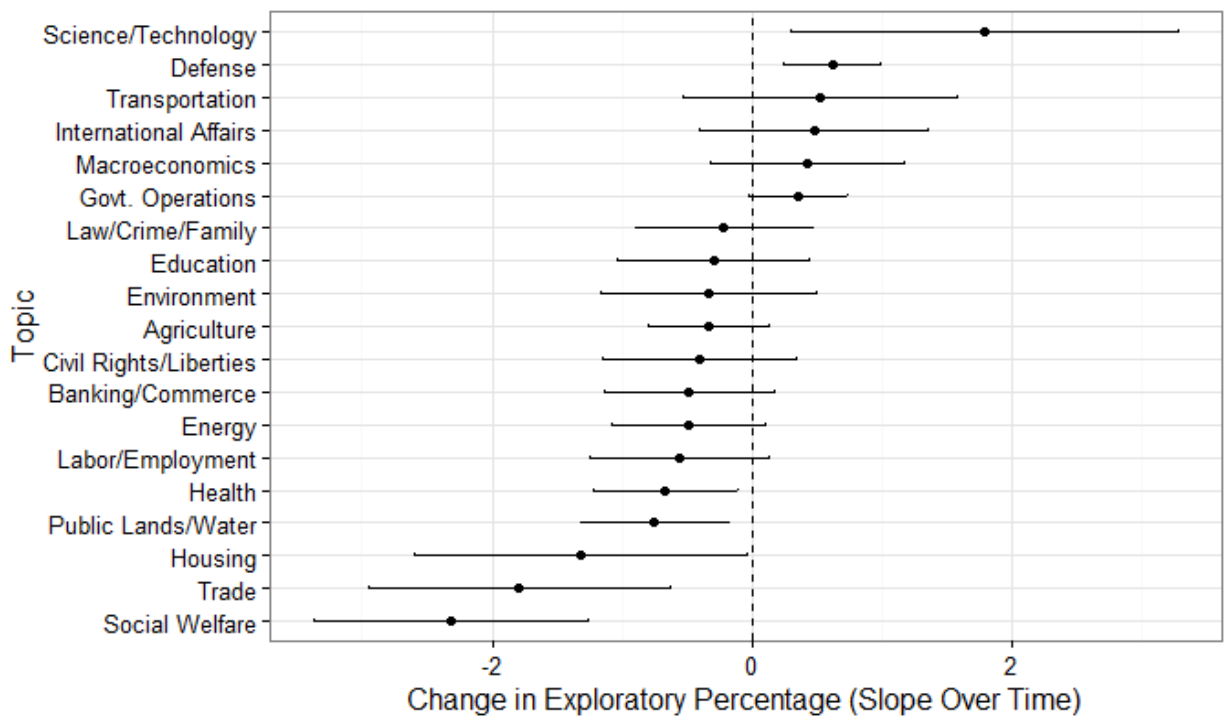
Note: The data in Figure 1 represent the slope coefficient estimates with standard errors for a series of OLS regression equations $Y_i = \beta_0 + \beta_1 X + \varepsilon$, where Y represents the average number of witnesses called to hearings on a given issue i in congress t and X represents a time trend counter; Immigration hearings have been excluded from this analysis due to a small number of hearings.

Figure 2. Changes in Percentage of Hearings Devoted to Policy Solutions, 1971-2010.



Note: The data in Figure 2 represent the slope coefficient estimates with standard errors for a series of OLS regression equations $Y_{it} = \beta_0 + \beta_1 X + \varepsilon$, where Y represents the percentage of solution-focused hearings on a given issue i in congress t and X represents a time trend counter; Immigration hearings have been excluded from this analysis due to a small number of hearings.

Figure 3. Changes in Percentage of Exploratory Hearings, 1971-2010.



Note: Note: The data in Figure 3 represent the slope coefficient estimates with standard errors for a series of OLS regression equations $Y_{it} = \beta_0 + \beta_1 X + \varepsilon$, where Y represents the percentage of exploratory hearings on a given issue i in congress t and X represents a time trend counter; Immigration hearings have been excluded from this analysis due to a small number of hearings.

Table 3. Summary of Changes to Committee Information Processing By Issue.

	Witnesses	Solution Percentage	Exploratory Percentage
Increase	None	None	Defense Science/Technology
No Change	Environment Science/Technology International Affairs	Macroeconomics Civil Rights/Liberties Environment Energy Housing Foreign Trade International Affairs	Microeconomics Civil Rights/Liberties Agriculture Labor/Employment Education Environment Energy Transportation Law/Crime/Family Banking/Commerce International Affairs Govt. Operations
Decrease	Macroeconomics Civil Rights/Liberties Health Agriculture Labor/Employment Education Energy Transportation Law/Crime/Family Social Welfare Housing Banking/Commerce Defense Foreign Trade Govt. Operations Public Lands/Water	Health Agriculture Labor/Employment Education Transportation Law/Crime/Family Social Welfare Banking/Commerce Defense Science/Technology Govt. Operations Public Lands/Water	Health Social Welfare Housing Foreign Trade Public Lands/Water